NATURE OF AMERICAN RELIGIOUS CORPORATIONS.

FROM the earliest period of our history it has been recognized that corporate existence and capacity is desirable if not indispensable in order to carry on the affairs of the various church societies in the most efficient manner. Accordingly various forms of religious corporations have been developed. Of these the earliest, namely the territorial parish and the corporation sole, grew out of the then existing union of church and state. They were public municipal corporations and passed away with the system which had given them birth. Their place was taken by other church corporations of which there are three principal forms namely the trustee corporation, the corporation aggregate and the modern form of the corporation sole.[1]

These latter corporations, whatever may be said of the former, bear no resemblance or analogy to the English Ecclesiastical corporations. They "are not to be regarded as ecclesiastical corporations, in the sense of the English law, which were composed entirely of ecclesiastical persons, and subject to the ecclesiastical judicatories; but as belonging to the class of civil corporations to be controlled and managed according to the principles of the common law as administered by the ordinary tribunals of justice."[2]

The proper place of these corporations, so far as the state is concerned, will appear, not only by a general survey of the relation of church and state on this side of the Atlantic, but also by an attentive examination of the steps by which they come into and pass out of being, are reincorporated, and are recognized even where their birth has been attended with irregularities. Their proper relation with the church will appear from reviewing the effect which incorporation has on the church property and on the church and society itself. We will first consider the relation of these corporations with the state.

1. *Corporation and State.*

In most European countries and in the early history of our own country there is no separation of state and church. The state directs the religious activities of its citizens and the church in turn exerts

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[1] See the author's article "Classes of American Religious Corporations" in volume 13, page 566, of this Review. Also his article "Powers of American Religious Corporations" in same volume, page 646.

[2] Robertson v. Bullions, 11 N. Y. 243, 251, affirming 9 Barb. 64, 87; Calkins v. Cheney, 92 Ill. 463, 478.

what influence it can on the state. The state uses the church as an instrumentality and the church uses the state for the same purpose. Under these circumstances church bodies, where they are granted corporate existence are but agencies of the state like counties, cities, towns and villages. They are established as such. They are public corporations. Such corporations are obviously impossible in the United States, where the establishment of any church is forbidden by the Federal and the State constitutions. It follows that the present day American church corporation cannot be a public corporation. Since there are only two classes of corporations—public and private—the conclusion that such American religious corporations are private corporations becomes irresistable.

This conclusion is strengthened when a somewhat closer view of the various laws under which Church corporations are formed is taken. When, early in our history, demands for corporate charters came from church societies which were not in harmony with the established church in the particular colony or state, and when these demands became insistent enough to reach the halls of legislation, there were no general incorporation acts of any kind. There was very little business and very few private corporations. What private corporations existed were chartered directly by the legislature. If therefore a church society desired corporate existence the only way to obtain it was to petition the legislature for a charter. A bill to incorporate the society, and defining its powers and duties, would have to be introduced and would become a law if it received the necessary vote in both houses and the consent of the executive. Accordingly church societies were thus incorporated by private charters in the early period of our history.

However this procedure was a rather burdensome one, particularly when the society which desired incorporation was in disfavor with the powers in control. And even where no enmity on the part of the legislature existed toward any particular denomination, the feeling toward church societies generally was one of distrust and the legislature would hesitate long before granting such charters. In consequence many church societies which needed corporate charters managed to get along without them. They simply exercised corporate powers for long periods of time and received recognition as private corporations by individuals and even by the legislature itself.[3] The question of their actual status would generally not come up for a long time. Then something would happen. The validity of a contract made with the society, or a testamentary gift

[3] Brown v. Langdon, Smith (N. H.) 178.

made to it, in the belief that it was a private corporation would come before the courts for decision. No charter to the society could be shown, though corporate powers had been exercised by it perhaps for a century and though it had been recognized by individuals and officials as a corporation for the same length of time.

Under such circumstances the common law doctrine of prescription was applied. A presumption was raised, from the long exercise of corporate powers, that a charter had been granted but had been lost. Under the theory of this fictitious lost charter the society was recognized as capable of making contracts[4] and taking devises.[5] Bodies united for religious purposes, though without a written charter or law, were considered as private corporations by prescription, with all the common law attributes, incidents, and rights of such corporations.[6]

It is obvious, however, that this method of obtaining a corporate existence by prescription is not only irregular but uncertain in the highest degree. No particular time is fixed after which the prescription becomes effective. The facts upon which it is based must, in part at least, be established by oral evidence. This necessarily will perish with the persons capable of giving it. Burdensome as the procuring of a special charter was, such a charter was for a time the only safe method by which church societies could assume corporate existence.

However this method was subject to grave abuse, not so much in regard to church societies but rather in regard to other private corporations. Not only would gross favoritism be shown to particular persons in granting charters to them, but the ever increasing demand for such charters threatened to swamp the legislatures and prevent them from performing their other duties. As a consequence constitutional amendments were passed in many states prohibiting the legislature from granting any such special charters and requiring them to pass general incorporation acts not only in regard to corporations for profit but also in regard to all other corporations.

Under these constitutional amendments, and the laws passed in accordance with them, the creation of private corporations has become an administrative function. The legislature lays down the conditions upon which charters are to be granted. The administrative officer entrusted with the enforcement of these laws deter-

[4] Whitmore v. Fourth Congregational Society in Plymouth, 68 Mass. 306.

[5] Brown v. Langdon, Smith (N. H.) 178.

[6] Magill v. Brown, Fed. Cas. 8, 952. This was a case in which a yearly meeting of Quakers was recognized as a corporation. See contra Green v. Dennis, 6 Conn. 293, 16 Am. Dec. 58.

mines whether these conditions have been met in the particular case, and issues the charter in case his determination is favorable to the petitioner.

Turning now to the particular procedure required in the various states to incorporate church societies, a great lack of uniformity will be found to exist. Each state has more or less passed through a development peculiar to itself, not only in regard to private corporations in general, but also in regard to religious societies. The influence which particular denominations have exerted on the legislature at various times is discernible in the statutes which have been passed in regard to religious corporations. The trust or distrust with which the various denominations have been regarded, and the favor or disfavor shown to them, can be observed by a careful reading of the statutes in force today. In addition these statutes, so far as they deal with the incorporation of religious societies, are frequently grafted on the general incorporation statutes of the particular state, which are also very diverse. In consequence it will be found that the policy of the various states ranges from a complete prohibition of religious corporations in Virginia and West Virginia[7] to an incorporation of all religious societies by the mere act of association without any public notice of any kind in Arkansas,[8] Mississippi,[9] New Hampshire,[10] and North Carolina.[11] In between these extremes some states will be found which make the incorporation of church societies more difficult than the chartering of corporations for profit, while others exact about the same amount of formality from either, and still others allow such societies to assume corporate existence by merely filing some declaration, affidavit or other paper prescribed by the statute with some designated officer. But whatever the formalities may be, it is clear from these statutes, their setting and wording, that the corporation intended to be created is merely a private corporation.

That this is the purpose of these laws is further apparent from the construction which they have received by the courts. Like all human actions, the incorporation of church corporations has been attended with blunders and mistakes. In many cases the statute in regard to this matter has but partially been complied with. What is the result of such a condition of affairs? It is clear that if the corporation were a public corporation, such mistakes would soon

[7] Virginia Const. Art. 4, see 59; West Virginia Const. Art. 6, sec. 47.
[8] Digest of Statutes of Arkansas, sec. 6851, 6852.
[9] Mississippi Code, sec. 933.
[10] Public Statutes of New Hampshire, Ch. 152.
[11] Revised Statutes of North Carolina, sec. 2670.

become entirely immaterial in suits brought by individuals as well as in suits brought by the state. Public policy would not permit the legality of their incorporation to be questioned after corporate rights had been exercised for some limited time. However this principle of public law is not applied to religious corporations. On the contrary the distinction between *de jure* and *de facto* corporations, which is distinctly a principle of private as distinguished from public corporate law, is fully applied to the religious corporation. It has therefore been held that while nobody but the state can question the *de jure* existence of a church corporation,[12] its *de facto* existence where there is a law under which the society might legally incorporate and a user by it of corporate rights,[13] can be questioned only when it comes up directly. While the exercise of corporate powers for twenty[14] or twenty-five years[15] has been held to make the associates a *de facto* corporation though no attempt to incorporate had been made, this result will not be achieved by mere user of corporate powers for a short period. In such cases the act must have become the special charter of the associates in some way other than by mere user in order to make them a corporation *de facto*.[16]

Just what action, short of creating a corporation *de jure,* will bring into being a corporation *de facto* is a question that cannot be answered categorically. Much will depend upon the relation which the person who questions the corporate existence has born toward the associates. Where such person has dealt with such associates as a corporation, proof of very irregular attempts at incorporation will be sufficient to establish the *de facto* character of the associates. Societies have under such circumstances received recognition as corporations though they were organized under an inapplicable[17] or unconstitutional statute;[18] though no sufficient notice was given of the meeting to incorporate;[19] though the certificate made by them contained but one of the four statutory requisites,[20] or was indefinite

[12] Klix v. Polish Roman Catholic St. Stanislaus Church, Mo. App. 118, S. W. 1171; Dubs v. Egli, 167 Ill. 514, 47 N. E. 766; Catholic Church v. Tobbein, 82 Mo. 418; Vernon Society v. Hills, 6 Cow. 23.

[13] M. E. Union Church v. Pickett, 19 N. Y. 482, affirming 23 Barb. 436; Van Buren v. Reformed Church of Gansevoort, 62 Barb. 495.

[14] Chittenden v. Chittenden, 1 Am. Law Reg. (O. S.) 538, (N. Y.).

[15] White v. State, 69 Ind. 273.

[16] Baptist Church v. Railroad Co., 4 Mackay (D. C.) 43; Van Buren v. Reformed Church of Gansevoort, 62 Barb. 495.

[17] St. John the Baptist Greek Catholic Church v. Baron, N. J., 73 Atl. 422.

[18] Catholic Church v. Tobbein, 82 Mo. 418.

[19] East Norway Lake Lutheran Church v. Froislie, 37 Minn. 447, 35 N. W. 260.

[20] Fifth Baptist Church v. Baltimore and Potomac Railroad Co., 4 Mackay 43, s. c. 5 Mackay 269, 137 U. S. 568.

in some particular,[21] or had not been sealed,[22] or sworn to,[23] or properly acknowledged.[24] Their *de facto* corporate existence has been upheld by the courts though the certificate was not made in time,[25] or had not been filed at all,[26] or had been filed in the wrong office.[27]

Where however the person who objects to the corporate existence of the church society has not recognized it in his dealings as a corporation, a far stricter rule will be applied. It has therefore been held under such circumstances that a certificate not signed by the proper person,[28] or acknowledged before the proper officer,[29] or which is deficient in its statements, lacks a seal and is recorded only two and one-half years after its execution,[30] is insufficient to confer a *de facto* corporate existence. The most scrupulous care should therefore be exercised in drawing up the necessary papers and in filing or recording them in the proper office.

The essentially private nature of religious corporations further appears from the provisions which are made for re-incorporating or dissolving them. A public corporation, being an agency of the state, is not created for any limited period and is dissolved, not by any acts of its own, but by the action of the state when its usefulness is considered to be at an end. Religious corporations, on the other hand, though they may in some states be created in perpetuity, are quite frequently incorporated for only limited periods. The charter will thus expire at some time and the associates will be confronted with the question of losing their corporate existence or of re-incorporating as provided by the statute. Such re-incorporation under the old special charter system was effected by obtaining another special charter from the legislature by the same method by

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[21] Lynch v. Pfeiffer, 110 N. Y. 33, 17 N. E. 402; All Saint's Church v. Lovett, 1 N. Y. Supr. Court 213.

[22] Stoker v. Schwab, 56 N. Y. Supr. Court 122, 1 N. Y. Supp. 425.

[23] Baltimore Inc. Railroad v. Fifth Baptist Church, 137 U. S. 568, s. c. 4 Mackay 43, 5 Mackay 269.

[24] East Norway Lake Lutheran Church v. Froislie, 37 Minn. 447, 35 N. W. 260; Franke v. Mann, 106 Wis. 118, 81 N. W. 1014, 48 L. R. A. 856. But see Evenson v. Ellingson, 72 Wis. 242, 265, 39 N. W. 330; First Baptist Society v. Rapalee, 16 Wend. 605.

[25] Willard v. M. E. Church Trustees, 66 Ill. 55; In re Cutchogue Society, 131 N. Y. 1, 30 N. E. 43.

[26] In re Court Street M. E. Society of Rome, 51 Hun. 104, 4 N. Y. Supp. 723; Mendenhall v. First New Church Society of Indianapolis, Ind. 98 N. E. 57; East Norway Lake Lutheran Church v. Froislie, 37 Minn. 447, 35 N. W. 260; First Baptist Church v. Baltimore Potomac Railroad Co., 5 Mackay 269, 273.

[27] In re Arden, 2 Will. 1 Con. Sur. 159, 4 N. Y. Supp. 177.

[28] Congregational Church of Ionia v. Webber, 54 Mich. 571, 20 N. W. 542.

[29] First Baptist Society v. Rapalee, 16 Wend. 605.

[30] Ferraria v. Vasconcelles, 23 Ill. 456.

which the original charter was procured.[31] This method is obviously inapplicable under modern incorporation acts. However the same effect may be achieved without loss of identity or forfeiture of franchise by following the statutory directions for re-incorporation. Where this is done the new corporation, though it may have assumed a different name,[32] will take the property of the old corporation and assume all its obligations.[33] Whether or not however the new corporation is simply a continuation of the old body or an independent organization will be a matter of intention.[34] It has therefore been held that where the old corporation was insolvent and had lost its church property by foreclosure, a new corporation under a different name, though principally made up of the same membership, affiliated with the same conference, occupying the same locality, and pursuing the same general policy, was not liable to a creditor of the old corporation though it had purchased the property formerly owned by the old corporation from the purchaser under the foreclosure sale. The intention not to continue the old corporation but to form a new one was too clear to be ignored.[35]

The private nature of religious corporations will further appear from the method by which they may pass out of existence. The question of corporate death by expiration of the charter entirely aside, the corporation—being a private concern—may commit suicide or may die a lingering death by simply ceasing to perform any corporate functions. While the question whether an abortive re-incorporation will dissolve the old corporation has been answered in the affirmative in Wisconsin[36] and in the negative in Vermont,[37] the cases are unanimous that such dissolution may take place by a resolution to disband[38] and may be made a matter of record by an application to a court for dissolution.[39] Such application may be made by a majority of the trustees without authority from any corporate meeting when the society has ceased to hold meetings.[40]

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[31] St. Luke's Church v. Slack, 61 Mass. 226; Episcopal Charitable Society v. Dedham Episcopal Church, 18 Mass. 371.

[32] Mussey v. Bulfinch Street Society, 55 Mass. 148.

[33] Miller v. English, 21 N. J. L. 317; Hosea v. Jacobs, 98 Mass. 65; First Society in Irving v. Brownell, 5 Hun. 464; Roman Catholic Church v. Texas Railway, 41 Fed. 564; Ludlow v. St. John's Church, 124 N. Y. Supp. 75.

[34] First Society in Irving v. Brownell, 5 Hun. 464; Miller v. English, 21 N. J. L. 317.

[35] Allen v. North Des Moines M. E. Church, 127 Iowa 96, 102 N. W. 808, 69 L. R. A. 255.

[36] Evenson v. Ellingson, 72 Wis. 242, 39 N. W. 330.

[37] Chester Congregational Church v. Cutler, 76 Vt. 338, 57 Atl. 387.

[38] McRoberts v. Moudy, 19 Mo. App. 26.

[39] In re St. Ambrose Church, 4 Pa. C. C. 272, 20 W. N. C. 317.

[40] In re Third M. E. Church of Brooklyn, 67 Hun. 86, 21 N. Y. Supp. 1105, affirmed 142 N. Y. 638.

But the corporation may be dissolved not only by some affirmative action taken by the associates or some of them, but may also die a natural death by absolute inaction on the part of everybody concerned. It has therefore been held that while a failure of the corporation for a time to hold corporate meetings and elect officers will not dissolve it,[41] such failure if continued for a long time will bring about this result.[42]

We have thus far considered the private nature of the modern American religious corporation. We have seen that under our system it cannot be a public corporation and hence of necessity is a private entity. This conclusion has been strengthened by reviewing the steps by which these corporations come into being, are re-incorporated and pass away, and the recognition which they receive when their birth has been irregular. The sole effect which such incorporation has on the state is simply to add another private corporation to the innumerable number of such corporations. It remains to consider the effect of incorporation on the church and society and on the property of the latter.

2. *Corporation and Church.*

In considering the effect which incorporation has on the church and society these two must be carefully distinguished. An unincorporated church, so-called, if it has any interest in property at all, presents a two-fold aspect. It has a body, the society, with which courts can deal, and a soul, the church, with which courts cannot deal. The church is the spiritual entity with spiritual sanctions and spiritual bonds of union. The society is the temporal body with temporal understandings and temporal articles of association. The church is subject to spiritual censure, the society is subject to the temporal powers that be. The object of the church is the preaching of the gospel, the object of the society is the management of property. The members of the society are not necessarily members of the church, and the members of the church are not necessarily members of the society. The society may exist and be recognized by the courts of the land though there is no church, and the church may exist and be recognized by its spiritual superiors though there is no society.

Since the church is thus entirely removed from temporal control it follows that incorporation will not affect it in the least. The spir-

[41] Lynde v. Hill, 31 Mass. 447; Oakes v. Hill, 31 Mass. 442; Tobey v. Wareham Bank, 54 Mass. 440; Baptist Meeting House of St. Albans v. Webb, 66 Me. 398.

[42] Easterbrook v. Tillinghast, 71 Mass. 17; Scott v. Curle, 48 Ky. 17, see Miller v. Riddle, 227 Ill. 53, 81 N. E. 48, reversing 130 Ill. App. 392.

itual entity created by spiritual means can neither be swallowed up nor affected by a temporal corporation created under temporal statutes. The corporation can exist without the church and the church without the corporation. The corporation, created by the state, may continue though the church is dissolved, while the church may continue though its charter has expired or has been cancelled by the state. Each is derived from a different source, has different powers, and is absolutely independent of the other.

While thus by incorporation no effect is produced on the church, the change that takes place in the society is very marked. The members of the society are recognized by the courts as at least the equitable owners of the church property. Their rules and by-laws will be considered by the courts in deciding cases involving such property and will often be of controlling influence. The society is thus a body with which the courts and the state in general can deal, and which receives a certain amount of recognition from both. It is a temporal body and hence is vitally affected by a temporal incorporation. In fact, according to the particular theory of religious corporations which prevails in the particular state, it is either annihilated and swallowed up by the corporation or it is allowed to remain with increased powers. Where the aggregate theory of religious corporations is in vogue the society will disappear and be merged in the corporation, and its members henceforth will be the members of the corporation. Where, on the other hand, the trustee corporation theory prevails, only the trustees will form the members of the corporation and the society will remain for the purpose of duly electing these members. By the power which the society exercises over the trustees it will be able to accomplish directly what formerly could be accomplished only by invoking the aid of equity. It follows that incorporated church societies under the aggregate theory present only a two-fold aspect—church and corporation,—while under the trustee theory their aspect is three-fold—church, society and corporation.[43]

[43] For cases distinguishing *church and society* see First Baptist Church in Hartford v. Witherell, 3 Paige 296; Downs v. Bowdoin Square Baptist Society, 149 Mass. 135, 21 N. E. 294; Wilson v. Livingston, 99 Mich. 594, 58 N. W. 646; but see Riffe v. Proctor, 99 Mo. App. 601; 74 S. W. 409. For cases distinguishing *society and corporation* see Feiner v. Reiss, 90 N. Y. Supp. 568, 98 App. Div. 40; Order of St. Benedict v. Steinhouser, 179 Fed. 137, affirmed 194 Fed. 289. For cases distinguishing *corporation and Church* see Barr v. First Parish in Sandwich, 9 Mass. 277; Hardin v. Baptist Church, 51 Mich. 137, 16 N. W. 311, 47 Am. Rep. 555; Catholic Church v. Tobbein, 82 Mo. 418; Huntley v. Collins, 131 Ala. 234, 32 So. 575; Reinke v German Ev. Luth. Trinity Church, 17 S. D. 262, 96 N. W. 90. For cases distinguishing *church, society and corporation* see Lawyer v. Cipperly, 7 Paige 281; People v. German Church, 53 N. Y. 103, reversing 6 Lans. 173, and affirming 3 Lans. 434.

While, however, the effect produced by incorporation on the society is important, the effect produced on the title of the property of such society is still more important. Church corporations are usually not organized till some property, tangible or intangible, has been acquired by the associates. Since these associates are generally too numerous and changing to hold this property as co-owners, and since they cannot hold it by the name which they have adopted, the property will be found under such circumstances to be held by some person or persons under an express or implied trust for the society. The effect of incorporation on this trust is well settled, both by the statutes and the decisions of the courts. Such property, except when it has been granted or devised to individual trustees for the society with intent that it should be held and managed by such trustees and none others,[44] will on incorporation without any extra formality, act, or resolution on the part of the incorporators,[45] be divested by operation of law from the trustees[46] and vested in the corporation exactly as such vesting takes place under the statute of uses.[47] No conveyance by the trustees to the corporation will be necessary to complete its title, though such conveyance—except in a case where the trustee has a lien against the property[48]—will be enforced[49] or presumed[50] for the convenience of the recorded title.[51] The corporation will be subjected to whatever obligations such trustees have assumed,[52] and

[44] Methodist Society v. Bennett, 39 Conn. 293; Exeter New Parish v. Odiorne, 1 N. H. 232, 236; see Catholic Church v. Tobbein, 82 Mo. 418.

[45] Sanchez v. Grace M. E. Church, 114 Cal. 295, 46 Pac. 2; Duessel v. Proch, 78 Conn. 343, 62 Atl. 152; Chatham v. Brainerd, 11 Conn. 60 Andrews v. Andrews, 110 Ill. 223; Dubs v. Egli, 167 Ill. 514, 47 N. E. 766; Christian Church v. Church of Christ, 219 Ill. 503, 76 N. E. 703; People v. Braucher, 258 Ill. 604, 101 N. E. 944; Miller v. Chittenden, 2 Iowa 215; Shapleigh v. Pilsbury, 1 Me. 271; Reed Howard v. Stouffer, 56 Md. 236; African M. S. Church v. Conover, 27 N. J. Eq. 157; Bundy v. Birdsall, 29 Barb. 31; Cammeyer v. United German Lutheran Churches, 2 Sandf. Ch. 186; Reformed Dutch Church v. Harder, 12 N. Y. Supp. 297, 34 St. Rep. 645, affirmed 126 N. Y. 646, 27 N. E. 853; First Baptist Church v. Witherell, 3 Paige 296, 24 Am. Dec. 223; Schenectady Dutch Church v. Veeder, 4 Wend. 494; Williams v. Presbyterian Church, 1 Ohio St. 478; Brendle v. German Reformed Congregation, 33 Pa. St. 415; Zion's Church v. Light, 7 Pa. Supr. Ct. 223; Martin v. German Reformed Church of Washington Co., 149 Wis. 19, 134 N. W. 1125; Reorganized Church of Latter Day Saints v. Church of Christ, 60 Fed. 937.

[46] Reformed Dutch Church v. Mott, 7 Paige 77, 32 Am. Dec. 613.

[47] Morgan v. Leslie, 1 Wright 144.

[48] Canajoharie Church v. Leiber, 2 Paige 43.

[49] Fourth Universalist Parish v. Wensley, 5 Weekly Notes Cas. 273; South Baptist Church v. Yates, 1 Hoffman Ch. 142.

[50] Reformed Dutch Church v. Mott, 7 Paige 77, 32 Am. Dec. 613.

[51] State v. First Catholic Church of Lincoln, Neb., 128 N. W. 657, St. Paul's Ev. Luth. Church v. Gray, 198 Pa. St. 321, 47 Atl. 976.

[52] Wesley Church v. Moore, 10 Pa. 273, 278.

entitled to whatever personal property they have acquired,[53] and will be able to bring actions of tort against trespassers on the church property,[54] and enforce land contracts made by such trustees for the association.[56]

From the foregoing the sphere of activity of the American religious corporation is clear and well defined. It has no concern with church work proper. It is not created to preach or to administer the sacraments. Its work is of a far humbler kind and compares with the work of the church proper as the work of the church janitor compares with that of the clergyman. Its sole purpose is to make contracts and acquire, hold and dispose of property. It is thus a purely secular agency. It is as much a business corporation, within its limited powers, as the Standard Oil Company is within its wider powers. It is the humble handmaid of the church created by the state for the purpose merely of conducting the business affairs of the church.

To sum up: The modern American religious corporation in its relation to the state is, unlike its predecessors, in no sense a public municipal body but a mere private corporation created by the state for the benefit of the corporators and those connected with them. In its relation to the church it is not a spiritual agency with powers to preach the gospel and administer the sacraments but a humble secular hand maid whose functions are confined to the creation and enforcement of contracts and the acquisition, management and disposition of property. The corporation thus has neither public nor ecclesiastical functions, being a mere business agent with strictly private secular powers.

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[53] North St. Louis Christian Church v. McGowan, 62 Mo. 279.

[54] Upper Nyack M. E. Church v. Bennett, 73 Hun. 585, 26 N. Y. S. 341; Second Congregational Parish in North Bridgewater v. Waring, 41 Mass. 304. But see Mountain Top Missionary Baptist Church v. McLarty, Ga., 66 S. E. 243.

[55] Gewin v. Mt. Pilgrim Baptist Church, Ala., 51 So. 947.

[56] Willard v. Methodist Episcopal Church Trustees, 66 Ill. 55; Whitsitt v. Preemption Presbyterian Church, 110 Ill. 125; Reformed Protestant Dutch Church v. Brown, 4 Abb. Dec. 31, 24 How. Pr. 76, affirming 29 Barb. 335, 17 How. Pr. 287.